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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,628

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EXAMINER

DANIEL JR, WILLIE J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/781,628

Applicant(s)

MURAI ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3 and 9-11 is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to applicant's communication filed on 26 October 2007 and 08 November 2007. **Claims 1-4 and 7-11** are now pending in the present application and **claims 5-6 and 12-15** are cancelled. This office action is made **Final**.

### *Priority*

2. Acknowledgment is made for receipt of a declaration and an English language translation of Japanese Patent Application No. 2003-106492 to support applicant's claim of foreign priority.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ayres et al.** (hereinafter Ayres) (US 2003/0078986 A1) in view of **Cohn et al.** (hereinafter Cohn) (US 2002/0065074 A1) and further supported by **Mangal et al.** (hereinafter Mangal) (US 6,865,398 B2).

Regarding **claims 1 and 7**, Ayres discloses a method for distributing video (e.g., multimedia MM) information to a mobile phone from a video contents server (e.g., multimedia distribution server - MDK 12, 14, 16), based on push technology, said video

contents server configured to store therein the video information to be distributed, under control of a user management server (MDK server 140) which controls user registration and video information distribution (see pg. 4, [0039-0040]), comprising:

registering a user request for a video information distribution service about an area to the user management server in advance (see pg. 1, [0009-0010]; pg. 4, [0045]), where the MDK server 140 includes a subscriber registration module (142);

detecting that the mobile phone exists in an area (see pg. 1, [0009-0010]; pg. 4, [0039-0040, 0045]); and

when said detecting results in a detection of the mobile phone exists in the area (see pg. 2, [0020]),

distributing the video information about the area from the video contents server to the mobile phone based on said push technology (see pg. 2, [0020]; pg. 5, [0053]), and

displaying the video information in real time (see pg. 2, [0020]). Ayres does not specifically disclose having the feature if the video information has not already been provided to the mobile phone that is not use. However, the examiner maintains that the feature if the video information has not already been provided to the mobile phone was well known in the art, as taught by Cohn.

In the same field of endeavor, Cohn discloses the feature if the video information has not already been provided to the mobile phone (e.g., wireless handheld device 18) that is not in use (see pg. 2, [0022, 0024, 0036]; pg. 3, [0050]), where the device can receive single use video content. Also, Cohn further discloses the feature mobile phone that is not in use (see pgs. 1-2, [0013]), where the wireless device lost connection (in other words, not in use) and

has to re-establish the communication link to receive the data not received, or the content can be delivered to the device and reviewed thereafter (see pg. 2, [0022, 0024]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres and Cohn to have the feature if the video information has not already been provided to the mobile phone that is not in use, in order to provide wireless delivery, downloading, playback and management of multimedia content on a mobile device, as taught by Cohn (see pg. 1, [0011]). The combination of Ayres and Cohn clearly discloses the features as indicated above as evidenced by the fact that one of ordinary skill in the art would clearly recognize. In addition to the above, the examiner maintains that the feature mobile phone that is not in use was well known in the art, as taught by Mangal.

As further support in the same field of endeavor, Mangal discloses the feature mobile phone (e.g., MS 14) that is not in use (see col. 13, lines 19-31, 57-62; col. 14, lines 4-13), where the system has to establish a communication path for the terminating MS 14 to receive the video.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres and Cohn as further supported by Mangal to have the feature mobile phone that is not in use, in order to reduce call setup from the user perspective by buffering an initial media transmission until a link exists to transmit the media further, as taught by Mangal (see col. 4, lines 35-47).

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***Allowable Subject Matter***

4. Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 2-3 and 9-11 are allowed.

***Reasons For Allowance***

6. The following is a statement of reasons for the indication of allowable subject matter:

**Claims 2-3 and 9-11** are allowed in view of applicant's communication (including supplemental response) and accompanying remarks.

***Response to Arguments***

7. Applicant's arguments filed 26 October 2007 have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations and comments in this section).

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., when the detected traffic is below a threshold) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument of claims 1 and 7 on pg. 2, sec. II, 2<sup>nd</sup> par. (see above), the applicant's argument relies on a feature(s) not recited in the claim(s).

9. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding applicant's argument of claims 1 and 7 on pg. 2, sec. II, 2<sup>nd</sup> par., "...fails to disclose...registering a user request for a video distribution service about an area, and distributing the video information about the area when a mobile phone is detected in the area..." and on pg. 3, sec. II, 4<sup>th</sup> par., "...fails to disclose...if the video information has not

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already been provided to the mobile phone that is not in use, displaying the video information in real time...”, the Examiner respectfully disagrees. Applicant has failed to appreciate the combined teachings of well-known prior art Ayres, Cohn, and Mangal that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. In particular, Ayres discloses the feature(s)

registering a user request for a video information distribution service about an area to the user management server in advance (see pg. 1, [0009-0010]; pg. 4, [0045]), where the MDK server 140 includes a subscriber registration module (142), and

distributing the video information about the area from the video contents server to the mobile phone based on said push technology (see pg. 2, [0020]; pg. 5, [0053]). As further support in the same field of endeavor, Cohn at the least discloses the feature(s)

if the video information has not already been provided to the mobile phone (e.g., wireless handheld device 18) that is not in use (see pg. 2, [0022, 0024, 0036]; pg. 3, [0050]), where the device can receive single use video content. Also, Cohn further discloses the feature mobile phone that is not in use (see pgs. 1-2, [0013]), where the wireless device lost connection (in other words, not in use) and has to re-establish the communication link to receive the data not received, or the content can be delivered to the device and reviewed thereafter (see pg. 2, [0022, 0024]). Additionally, as further support in the same field of endeavor, Mangal discloses the feature mobile phone (e.g., MS 14) that is not in use (see col. 13, lines 19-31, 57-62; col. 14, lines 4-13), where the system has to establish a communication path for the terminating MS 14 to receive the video. Therefore, the



combination(s) of the reference(s) Ayres, Cohn, and Mangal as addressed above more than adequately meets the claim limitations.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR

18 January 2008



CHARLES N. APPIAH  
SUPERVISORY PATENT EXAMINER